

1 Ulvar W. Klein
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6 Attorney for Nathan Cloud

7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF WASHINGTON**

9 UNITED STATES OF AMERICA

10 Plaintiff,

11 vs.

12 NATHAN CLOUD,

13
14 Defendant(s).

) Case No. 1: 22-CR-2027-SAB-1

) NOTICE OF INTENT
) TO REQUEST LESSER
) INCLUDED JURY INSTRUCTIONS

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17 **MOTION**

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19 COMES NOW the defendant, Nathan Cloud, through his attorney, Ulvar Klein,
20 and submits the following notice of intent to request lesser included jury instructions.
21 Trial is currently scheduled for April 25th, 2023.
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ANTICIPATED FACTS¹

On January 27th, 2022, Nathan Cloud was arrested on a federal warrant. At the time the defendant was arrested officers located some illegal narcotics. Officers located a clear plastic baggie with 17 fentanyl pills. Also discovered were 5 baggies of a white crystalline substance. 4 of the baggies contained smaller amounts of the white substance and the 5th contained a larger amount.

ARGUMENT

The defendant is charged with possession with intent to distribute these substances. There is no direct evidence that such is the case. There are no controlled buys. There are no observed transactions. The defendant admitted that the drugs were his and were for his personal use. A criminal defendant "is entitled to an instruction on a lesser included offense if the evidence would permit a jury rationally to find him guilty of the lesser offense and acquit him of the greater." Keeble v. United States, 412 U.S. 205, 208, 36 L. Ed. 2d 844, 93 S. Ct. 1993 (1973).

¹ As outlined in warrant affidavit previously submitted.

1 Respectfully submitted April 21, 2023

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3
4 /s Ulvar W. Klein

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notifications of such filing to AUSA Michael Murphy.

s/ Marcie Rivera

Marcie Rivera
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